

Meeting Minutes January 15, 2004

Town of Los Altos Hills City Council Regular Meeting

Thursday, January 15, 2004 6:00 P.M.
Council Chambers, 26379 Fremont Road

1. CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE

Mayor Cheng called the Regular Meeting of the City Council to order at 6:00 p.m. in the Council Chambers at Town Hall.

Present: Mayor Emily Cheng, Mayor Pro Tem Mike O'Malley, Councilmembers Bob Fenwick, Breene Kerr and Dean Warshawsky
Absent: None
Staff: City Manager Maureen Cassingham, City Attorney Steve Mattas, Planning Director Carl Cahill, Assistant Planner Angelica Herrera Olivera, Acting City Engineer/Director of Public Works Dave Ross, Administrative Services Director Sarah Joiner and City Clerk Karen Jost
Press: Tim Seyfert, Los Altos Town Crier and Kaye Ross, San Jose Mercury News

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Warshawsky and passed unanimously to limit the length of time for public comments to three minutes and to request that speakers strictly adhere to the time limit due to the full meeting agenda.

Mayor Cheng announced that the meeting agenda would be reordered to accommodate speakers and applicants schedules.

2. APPOINTMENTS AND PRESENTATIONS

2.1 Certificate of Appreciation-Martha Hunton, Los Altos Senior Center

Mayor Cheng presented a Certificate of Appreciation to Martha Hunton. Ms. Hunton has served as the Los Altos Hills representative to the Los Altos Senior Center Board of Directors for four years and is continuing to volunteer at the center.

Council joined the Mayor in thanking Ms. Hunton.

2.2 Presentation by "Splash" Los Altos Community Pool

Dan'l Lewin, representative from Splash (Swimmers Promoting Los Altos Aquatics, Safety and Health) addressed Council. He presented a historical summary of the group's efforts to build a community pool in Los Altos. Luwin explained that the volunteer group (Splash) is committed to raising the necessary funds to support the project. He thanked Council for allowing him the time to open the dialogue with the Town regarding

this valuable community resource and will continue to keep the Council apprised of the project's progress.

3. PLANNING COMMISSION REPORT

Planning Director Carl Cahill reported that the Planning Commission had reviewed three items at their January 8, 2004 meeting. They included: Lands of Corrigan, 13445 Robleda Road, a request for a Site Development Permit for a landscape screening plan; Lands of Chopra, 13212 East Sunset Drive, a request for a Site Development Permit for a 386 square foot pool area patio, with BBQ, sink and counter, and a variance to encroach 19 feet into the front yard 40 foot setback; and the Town's Housing Element. The Commission approved all items.

4. CONSENT CALENDAR

Item Removed: Item 4.4 (Cheng)

MOTION SECONDED AND CARRIED: Moved by Fenwick, seconded by O'Malley and passed unanimously, to approve the remainder of the consent calendar, specifically;

4.1 Approval of Minutes: Regular City Council Meeting December 18, 2003

4.2 Review of Disbursements: 12/06/04 – 01/07/2004 \$630,248.58

4.3 Approval of the Joint Volunteer Awards Criteria

Item Removed:

4.4 Approval of Resolution in Support of Measure B-Keep our Library Strong

Mayor Cheng explained that she had removed this item for separate discussion for the opportunity to inform Council that cities are supporting Measure B with city resolutions and private donations from Councilmembers.

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by O'Malley and passed unanimously to adopt Resolution No.2-04 In Support of Measure B – A Ballot Measure to Continue Support for Santa Clara Counties Libraries.

5. UNFINISHED BUSINESS

5.1 Update on Mayor's Goals

5.1.1 New Town Hall – Status Report

5.1.1a Discussion of Financing Vehicle for New Town Hall-
Finance and Investment Committee

Lalla Stark, Chair Finance and Investment Committee, addressed Council. She noted that Council had before them a report that had been prepared by the Committee that identified their recommendations for financing the New Town Hall project. She was available to answer any questions that Council might have. She acknowledged that the Committee was, by a unanimous vote, recommending that the new Town Hall project be postponed

until the general economy improves and the State's fiscal conditions stabilizes. Stark explained that the State's fiscal crisis puts local revenues, such as motor vehicle license fees, property taxes, and possibly sales tax at risk and could jeopardize funding for current operating and capital expenditures. She reviewed the potential fiscal impact to the Town.

Stark noted that if the City Council chose to proceed with the project, five of the seven members voted to recommend funding from Town reserves. Two of the seven members voted for complete or partial funding from the issuance of Certificates of Participation (COPs).

Council discussed financing options and the advantages and disadvantages of borrowing the full cost of the project. It was noted that the cost analysis in the Committee's report represented borrowing the full amount of the project cost. Stark noted that financing costs for issuance of COPs were about the same for 2.5 million or 4 million and it would most likely be more difficult to find a lender that would be willing to lend the smaller amount.

Mayor Pro Tem O'Malley explained for Council the reserve fund options that would be available if cash reserves were used to fund the Town Hall project, including: the street capital improvement funds that have not been appropriated; emergency reserves; and contingency reserves.

Frank Lloyd, Finance and Investment Committee Vice Chair, reviewed the spreadsheets attached to the report with Council.

Craig Jones, Finance and Investment Committee member, addressed Council. He explained that his opinion differs from the majority opinion of the Committee on the financing of the new Town Hall. Jones believes that the Town's finances are in "good shape" and that the revenue reserves are adequate. He explained his reasons for supporting partial financing of the project with the remainder being financed from the Town's reserves. Jones reiterated the Committee's recommendation stated in the report that if the Council decided to move forward with the project, they should consider the adoption of a comprehensive budget process that could help to eliminate the "piecemeal" deficit spending that is occurring at this time.

Mayor Pro Tem O'Malley requested an opinion from the City Attorney on the use of enterprise funds, not as a financing vehicle, but for emergency spending. Mattas will review the options that would be available to Council and report back.

Mayor Cheng explained that she would like to entertain a motion on moving forward or postponing the Town Hall project and continue the financing discussion to another meeting.

Councilmember Kerr noted that there were several factors that make this an opportune time for this municipal project, including: the favorable costs of construction, the near completion of the building plans and the very evident need for a new facility.

Councilmember Fenwick voiced his support for moving forward with the project.

Mayor Pro Tem O'Malley concurred. He believes the Town residents are in support of the project and noted that there has been a true impetus for the new Town Hall from all sectors of the community. O'Malley added that the Town can control spending with fiscal constraints.

Councilmember Warshawsky thanked the Finance and Investment Committee for their efforts in investigating and evaluating the various options for financing the new Town Hall. He agreed that this is the appropriate time for building a new Town Hall. The present facility is in disrepair and is not an adequate working environment for staff and the Town's finances are solid. He is in favor of moving forward on the project.

Mayor Cheng concurred and explained that she understands the concerns of the Finance and Investment Committee. However, there is a definite momentum to move forward with the project from the community. Cheng explained that there are definite costs associated with each delay of the project. She added that the residents are looking forward to the new Town Hall and that she agrees with Council on moving forward with the project.

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by Warshawsky and passed by the following roll call vote to proceed with the new Town Hall project as scheduled:

AYES: Mayor Cheng, Mayor Pro Tem O'Malley, Councilmember Fenwick,
Councilmember Kerr and Councilmember Warshawsky
NOES: None
ABSENT: None
ABSTAIN: None

PASSED BY CONSENSUS: To schedule a City Council Special Meeting, Thursday, January 29, 2004, to discuss financing options for the new Town Hall. Council requested the attendance of a Bond Counsel to answer any questions that might arise. The final decision on the financing option will be agendized for the Regular City Council Meeting, February 5, 2004.

5.1.1b. Presentation of Green Energy Program for New Town Hall-
Councilmember Kerr

Councilmember Kerr summarized the Green Energy Program for the new Town Hall. He reviewed the California Energy Commission's application for Energy Efficiency Financing that is offered to schools, hospitals, and local governments with Council. Kerr explained he was requesting Council's approval to submit the application for a loan amount up to \$200,000. while the funds are still available. Council discussed the program and loan terms.

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Warshawsky and passed unanimously to approve Resolution 1-04 authorizing

Councilmember Kerr to apply for an energy efficiency loan up to \$200,000 for the new Town Hall from the California Energy Commission.

5.1.2 Undergrounding of Utilities – Status Report

Councilmember Warshawsky reported that the Subcommittee has received the preliminary numbers from R. W. Beck. They are reviewing the information and reconciling the numbers. The final report is expected in a month.

Warshawsky has met with the Godbe Research associates to discuss the telephone survey. It is scheduled for March and a preliminary report will be provided one week from the conclusion of the survey.

5.1.3 Master Pathway Map – Status Report

5.1.3a Pathways Map Guidelines - Chris Vargas, Pathways Committee Chairman

Chris Vargas, Pathways Committee Chair, explained that Council had before them the Pathways Committee Project Plan for the Master Pathway Plan update process. He noted that the Planning Director had reviewed and commented on the report. He was seeking direction from Council on the Plan.

Mayor Pro Tem O'Malley congratulated the Committee on their work. O'Malley voiced his concerns with the Project Plans identification of Major Goals (3-5 years).

Council discussion ensued. Council directed Chairman Vargas to make the following modifications to the Master Pathway Plan Update project plan:

- 1) Delete the request for city staff to review the map from the Ad-Hoc Committee for accuracy (Phase 3 page1)
- 2) Delete items 2,3,4 (Guidelines & Policy -page 2)
- 3) Delete Major Goals (3-5 years) and Fiscal Year priorities of the Committee (page 4)
- 4) Add: The Committee will follow the General Plan Pathway Element with regard to Pathways on Private Streets. (Guidelines & Policy –page2)

Vargas concurred with the changes. Council commended the Chair and his Committee for all of their efforts

OPENED PUBLIC COMMENT

Dot Schreiner, Saddle Mountain Drive, requested clarification on the Town's policy on private roads.

Sandy Humphries, Fremont Road, expressed her support for off road pathways and voiced their value as wildlife corridors. She is concerned that fencing of residences could be potential barriers to the animals.

5.1.4 Storm Water Master Plan – Status Report

Acting City Engineer Dave Ross reported that the project is on schedule and he is expecting the technical report by the end of January. He will forward the report to Council.

5.1.5 Visit to China to Explore Business Opportunities

5.1.5a Consideration of Proposed Visit to China

Mayor Cheng asked Council if they were interested in supporting the proposed visit to China. She explained that many of the Town's municipal neighbors have participated in similar visits including: Mountain View, Sunnyvale and Cupertino.

Sam Zhang, Executive Director – US-Asia Exchange Association, reviewed the proposed trip itinerary with Council. The trip would commence on April 16, 2003 and include 2-3 day visits to each city with a scheduled return to the San Francisco on April 25, 2003.

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by O'Malley and passed unanimously to sanction the trip to China, with no cost to the Town, and make the trip available by invitation to Councilmembers and residents. Mayor Cheng will serve as the official representative of the Town on the trip to China.

5.2 Consideration of Endorsement of the Budget Accountability Act / California League of Women Voters – Mayor Pro Tem O'Malley

Mayor Pro Tem O'Malley explained that he had agendized this item for Council consideration at the request of the League of Women Voters. The League is petitioning Cities to adopt a resolution in support of Proposition 56 to send direction to the State Legislators encouraging them to end budget delays and consider Proposition 56.

MOTION SECONDED AND CARRIED: Moved by Warshawsky, seconded by Kerr and passed unanimously to adopt Resolution 3-04 endorsing Proposition 56-Budget Accountability Act.

6. NEW BUSINESS

6.1 Appointment of Prospective Member to the Environmental Design and Protection Committee

Neela Shukla, applicant, introduced herself to Council. She expressed her interest in serving on the Environmental Design and Protection Committee. Shukla noted that she has a background in architecture and city planning.

PASSED BY CONSENSUS: To appoint Nella Shukla to the Environmental Design and Protection Committee for a term of four years.

Mayor Cheng thanked Ms. Shukla for applying and welcomed her to the Town's Standing Committee.

6.2 Presentation of the Sanitary Sewer Master Plan Final Report – HDR Engineering

Acting City Engineer David Ross introduced the item to Council. He presented a brief overview of the Master Plan Final Report prepared by HDR Engineering. The reports findings were very positive and the consultants anticipate no need for the Town to begin the Capital Improvement Program (CIP) within the next 10 years. The report recommends that the Town, in the near term, devotes its resources to operations and maintenance and flow monitoring at the outlet connections to the City's of Los Altos and Palo Alto. Ross added that representatives of HDR were present to answer any questions from Council.

Councilmember Fenwick commended HDR for a fine report noting that it was very easy to read and very informative.

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Warshawsky and passed unanimously to adopt Resolution 4-04 adopting the Town of Los Altos Hills Sanitary Sewer Master Plan.

7. REPORTS FROM COMMITTEES, SUB-COMMITTEES, AND COUNCILMEMBERS ON OUTSIDE AGENCIES

7.1 Public Education Committee Status Report – Steve Hubbell, Chairman

Steve Hubbell, Chair Public Education Committee, addressed Council. He presented a brief summary of the Committee's recent meetings and projects. The Committee has designed a brochure/survey for distribution via the Town's Newsletter that will assist the Committee in evaluating the residents' opinion on public education in the Hills. The draft survey was reviewed by Council. Several changes were requested by Council and the Committee was directed to return the final draft of the survey to Council for consideration at their February 5, 2004 Regular Meeting.

Hubbell noted that the Committee will be hosting three public information meetings and they will be announced on the brochure.

Hubbell requested permission for the Committee to approach the current school districts to see if they would be interested in assuming responsibility over more of Los Altos Hills and guarantee a public school within the Town. This is listed as an option on the questionnaire.

Mayor Cheng said she believes it would be appropriate to have more public input before Council gives direction to the Committee to meet with the school districts for any discussions. Council concurred.

OPENED PUBLIC COMMENT

Duncan MacMillan, Public Education Committee member, explained that the Committee was hoping to meet with the districts to verify their property tax dollars per student information and the level of interest the districts have for "coming" into the Hills. The Committee would like to share any information they gathered from the districts with the public at the March meetings.

John Harpootlian, 26435 Anacapa Drive, concurred with the Mayor's evaluation of the student expenditures by the district as surprising. He believes the survey will be a positive vehicle for getting information to the residents.

CLOSED PUBLIC COMMENT

Councilmember Kerr congratulated the Committee on their efforts and voiced his support for the survey.

Council concurred and thanked the Committee.

COUNCILMEMBER REPORTS

Councilmember Fenwick reported that he had met with Santa Clara County Supervisor Liz Kniss and her policy analyst to discuss the S1Pathway Alternatives. They had discussed the various options.

Fenwick also met with Carl Pilnik, TMC Consultants, and the City Manager to review the status of the franchise renewal with Comcast. They discussed the Town's request for government and educational channels.

Fenwick reported that he had attended the Emergency Communications Committee meeting. A joint exercise with the County OES and the ham radio operators has been scheduled for February 24, 2004 from 9-11am.

Councilmember Kerr reported that he had attended the VTA meeting. The Bike Path Element was discussed.

Mayor Cheng attended the Parks and Recreation Committee Meeting. Committee members would like to open a dialogue with the Supporters of Westwind Barn.

8. STAFF REPORTS

8.1 City Manager

8.1.1 Vehicle License Fees and Cities Lawsuit Update – Administrative Services Director

Administrative Services Director Joiner reported that the Governor's proposed budget for fiscal year 2004-2005 calls for the VLF backfill. His budget also includes another shift of property tax-referred to as ERAF II-from counties and cities to fund schools. This additional shift would cost the Town approximately \$80,000 in addition to the approximately \$359,031 that was shifted by ERAF I.

Joiner explained that the budget proposal is tentative at this stage-the legislature has yet to weigh in on the budget and it is unknown if the \$15 billion recovery bond measure needed to make this budget work will be approved by the voters in March, 2004. In addition, the State promised to pay the VLF gap, that is the backfill for the period of June 19 through September 30, 2003 to counties and cities in 2006. This payment may not be included in the final budget.

Joiner concluded by saying that the final product most likely won't be available until July, 2004, or later and may include tax increases, restoration of the VLF, or even further shifts of property tax. She will update Council as the budget unfolds.

8.2 City Attorney

8.3 City Clerk

8.3.1 Report on Council Correspondence

Mayor Cheng reported that Acting City Engineer David Ross is investigating the response letter from the Department of Transportation that was in Council's packet regarding accidents on El Monte and Highway 280.

9. COUNCIL-INITIATED ITEMS

9.1 Discussion of Town Newsletter Policy – Councilmember Warshawsky

City Manager Cassingham introduced this item to Council. Cassingham noted that this item had been agendized for discussion at the request of Councilmember Warshawsky. During the review process of the December Newsletter, there had been differing opinions regarding a proposed article and the policy discussion has been brought forward to Council to give guidance to the Editor, Community Relations Committee and staff. Cassingham had summarized the 1986 Council adopted Newsletter Policy and the more current Fair Political Practices Commission's mass mailing regulations for Council in the staff report that was before them.

OPENED PUBLIC COMMENT

Roy Woolsey, Chair Community Relations Committee, addressed Council. He commended Duffy Price, Newsletter Editor, for her outstanding work as a volunteer editor. Woolsey stated that he believes, in general, that the Town's 1986 Newsletter Policy is excellent. The policy clearly states that the Newsletter is to be objective and non-political and clearly defines that the purpose of the newsletter is to inform the public rather than to promote. Woolsey explained his recommendations for additions to the Newsletter Policy:

- 1) Fold into the 1986 Policy the three FPPC regulations as identified in the 1989 letter from the City Attorney;
- 2) Eliminate the routine review by the City Attorney of the Newsletter and only forward articles that are identified as needing City Attorney review by the Newsletter Editor, Council or staff;
- 3) Review of the Newsletter by a two (2) member subcommittee of the Council as specified in the 1986 Newsletter Policy

Duffy Price, Editor of Newsletter, commented that she appreciates the review of the Newsletter policy. She explained that the Community Relations Committee strives to deliver open and honest communication to the residents. The philosophy of the Committee is based on three key elements: they strive to be fair, balanced and a voice

for all members of the community. Price noted that they are very democratic in their outreach for articles. The majority of the articles seek to unite the community in a common goal, lift our spirits and raise the awareness of the community by reporting on individual and organizational achievements. The Committee is committed to cover all aspects of the community. It is the hope of the Committee that the Council will endorse this general philosophy of the Committee.

Roger Burnell, Community Relations Committee Member, provided a historical summary of the Newsletter. He explained that it was a volunteer/grassroots newsletter in its earliest stage. Draft articles were reviewed by two Councilmembers and eventually the City Attorney joined the review process. It was not a political vehicle. Burnell expressed his opinion that the Newsletter is not a "City Hall" publication but a volunteer newsletter that is communication from residents to residents.

CLOSED PUBLIC COMMENT

Councilmember Fenwick disagreed and explained that the Newsletter is perceived as the position of the Town Government. It is sent out to the Community from the Town at the Town's expense.

Council discussed the review process for the Newsletter.

City Attorney Mattas advised the Editor on the proper distribution to Council for the review of articles. A subcommittee of two Councilmembers or the review by the Council Liaison to the Newsletter would be appropriate and meet the requirements of the Brown Act. Articles can be sent to all of Council for informational purposes but if there is a controversial article that requires comment of all Councilmembers, it should be brought to the Council as a whole at a Council meeting.

Mattas clarified that the Newsletter is a governmental publication. The Newsletter is paid for by the Town of Los Altos Hills and as such is governed by State Law. It would be a violation of State Law to publish any articles that would take a political position. Mattas explained that it would be best to clarify the definition of Town-little "t" or big "T".

Council directed the City Attorney to draft a revised Newsletter Policy and return it to Council for consideration on the consent calendar at their next meeting.

10. PRESENTATIONS FROM THE FLOOR

Ernest Solomon, Director Purissima Hills Water District, noted that the Board is looking forward to Council's response to the District's letter regarding their lease.

Roger Burnell, Black Mountain Road, addressed Council and offered his suggestion for resolving the Campbell-Ligeti (Winbigler) dispute. He distributed an article that he had written for the Town Crier last year that might be helpful to Council.

Sandy Minga, Dawnridge Drive, requested a status report on the proposed permitted parking ordinance. City Attorney Mattas, reported that the introduction and first reading of the report is scheduled for the February 5th Regular City Council Meeting.

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Kerr and passed unanimously to re-open "Presentations From The Floor" to allow additional public comments.

Chris Vargas, Bullis Charter School Foundation Board Member, reported that the school has received 200 applications. They will enroll 155 students the first year. The response has exceeded BCS's expectation and the Board is very pleased. The Town residents have shown a high degree of interest. A decision on the location for the school will be made in March.

11. PUBLIC HEARINGS

11.1 Adoption of an Amendment to the Town of Los Altos Hills General Plan Housing Element.

Planning Director Carl Cahill introduced this item to Council. He referred to the letter from the California Department of Housing and Community Development (HCD) that notified the Town that the Housing Element would be certified by the State with a few minor changes. The changes were noted in the staff report before Council. Cahill explained that following City Council adoption of the Housing Element, it will be forwarded to HCD for their final review and certification.

Mayor Pro Tem O'Malley commended the staff and Housing Element Subcommittee on their efforts to resolve the outstanding issues with the Housing Element and achieve State approval.

OPENED PUBLIC HEARING

Dot Schreiner, Saddle Mountain Drive, Housing Element Subcommittee member, addressed Council. She presented a brief summary of the challenges that the Town had encountered in receiving certification of the Housing Element and the solutions that had ultimately garnered the Town State approval. She praised Associate Planner Debbie Pedro and consultant Deborah Ungo-McCormick for their work on the project.

CLOSED PUBLIC HEARING

Mayor Cheng and Council thanked Schreiner for her work on the Housing Element.

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Fenwick and passed unanimously to approve Resolution No. 5-05, A Resolution of the City Council of the Town of Los Altos Hills to Amend the General Plan and Adopt the Housing Element of 2002.

11.2 Consideration of a Request to Vacate Existing Pathway Elements #1,2,3,4 and Offer to Dedicate Two New Pathway Easements; Lands of Kerns, 11885 and

Planning Director Cahill introduced this item to Council. Cahill presented a power point presentation to Council that provided a historical overview of the original Gaither subdivision pathway easements, the eventual development of the property by the applicants, plat schematics of recommended pathway options and photos of the property's terrain. Cahill explained that when the applicants received site approval for their new residence, the building site was located near the existing easements. At this time, the applicants had wanted the pathways relocated, however, Council did not approve the request to vacate the easements but placed a condition of approval (COA) on their project that required that the applicant work with the Pathways Committee and the Mid Peninsula Open Space District to locate an appropriate pathway on their property that would route to the Duvenick Open Space Preserve. Cahill noted that this condition was consistent with the Town's General Plan.

In conformance with this COA, the applicants met with the Pathways Committee in July 2003 and a recommendation that was acceptable to the applicant and the Committee was reached. The recommendation included: the dedication of a new 25-foot wide pathway easement that would run-along the driveway and connect to the neighboring property to the west, Lands of Wayman; the dedication of a triangular-shaped easement on the south eastern property corner; the retention of the existing pathway easement on the lower portion of the driveway that leads to the cul-de-sac; and if the recommended alternatives were implemented, the Pathways Committee agreed that the requested vacation of pathways easements would be acceptable.

In October, 2003, the Planning Commission found the applicant's request to vacate the easements and the recommendations of the Pathways Committee to be consistent with the Town's General Plan. Cahill noted that no diagrams or maps associated with the recommendations were presented to the Planning Commission at that time. Subsequently, when the applicant staked out the proposed pathway easement, it was evident that the terrain and location were not what the Pathways Committee had intended.

The Pathways Committee and the applicant met on December 8, 2003 to redefine the options (recommendations). Cahill summarized the proposed three options for Council. They included:

1) *Recommendation/Option #1* – vacate a portion of the existing easement on the driveway; add a triangle shaped easement at the south eastern property corner; add a 20-foot easement along the driveway retaining wall and then to the existing ten-foot easement #4; and to keep easement #4.

2) *Recommendation/Option #2* – vacate the upper driveway easement just above the bend and where the existing easement #4 connects; add a triangle shaped easement at the south eastern property corner; add an additional 20 feet in width to the existing 10-foot easement #4 to facilitate the pathway construction on steep terrain.

3) *Recommendation/Option #3* – for Council to defer the pathway easement vacation request until the General Plan Master Path Plan Update is completed and adopted.

Cahill's presentation provided terrain photos and plats of the recommendations for Council. Cahill noted that Staff recommends Option #3. If Council should adopt this recommendation, Cahill explained that the property owner should be relieved of his obligation to develop an alternative route prior to occupancy, however the applicant is obligated to pay a pathway fee prior to final inspection or occupancy of the residence.

OPENED PUBLIC HEARING

Bill Kerns, 11888 Francemont, applicant addressed Council. Kerns presented a power point presentation and distributed a hand out to Council to be used in conjunction with his presentation. Kerns explained that he is offering to dedicate a new pathway segment at "Peck's Nose" on the Rhus Ridge Trail and requesting to vacate all other pathway segments on his property except for those over the asphalt portion of his driveway.

Kerns' presentation included photos of trailhead entrances to Rancho San Antonio, congested parking at these locations, and text slides referencing Francemont Trailhead issues. Kerns explained he would like the Council to be aware of the potential future issues that could arise if a trailhead is located/implemented on Francemont as a result of the granting of the proposed pathways easements on his property. He distributed a petition that he attributed to be signed by his neighbors opposing establishing any trailhead from Francemont Drive into Rancho San Antonio Open Space Preserve and/or the Lands of Wayman and Town owned property which are south of Moody Road and Murietta Lane.

Kerns, displayed schematic and photo representations of the recommended pathway locations on his property. Of the three options, he favors recommendation/option #1 and believes it offers the only viable useable pathway connection.

In summary, Kerns reiterated his opposition to a trailhead being located on Francemont and sited his concerns for privacy, potential threat of fire, and traffic congestion. He reviewed his "best solution" with Council that included a pathway fee of \$8,400 (200 foot path x \$42/foot) that would be paid by the applicant.

Councilmember Kerr requested clarification of staff on the pathway fee. Planning Director Cahill explained that staff recommends that the fee be based on the average width of the property. Typically, path fees for parcels on cul-de-sacs are based on the average widths of the lot. Engineers have determined that the average width of the Kerns' lot is 588 linear feet. 588 x the pathway fee of \$42/linear foot is approximately \$25,000. Cahill explained that this fee is collected even if there is an easement is granted but the applicant is not required to build the path.

Betty Kerns, 11888 Francemont, introduced Ms. Connie Wang, who had just recently purchased the lower parcel of their subdivision.

Ms. Wang, 11885 Francemont, explained that she purchased the property last month and likes the natural, green setting very much. She looks forward to riding her horse in the open space but does not want a trailhead on her property.

Chris Vargas, Pathways Committee Chairman, addressed Council. He noted that there is no discussion or decision at this time to establish a trailhead on Francemont. He would appreciate it if residents would save their comments regarding a potential path for the hearings that will be conducted by the Committee for the review process of the Path Map. Vargas added, in response to a letter that has been received by the Town from Hidden Villa expressing concerns about a proposed path through the property, that there has been no discussion of developing a pathway through Hidden Villa. Vargas added that the Pathways Committee would like to maintain the flexibility of having an easement on the Kerns property to potentially use or not. He explained that all three recommended options are agreeable to the Committee but that Option #3 would be the simplest; to not do anything at this time and revisit the question during the review/update of the Master Path Map.

Luiz Yanez, 26879 Moody Road, stated that he was delighted to hear the Pathways Chair state that no decision has been made on the path. He expressed his support of the Town's pathways system. He believes they are an asset to the community but prefers to have paths located on major roads.

Carol Gottlieb, 24290 Summerhill Road, envisions a neighborhood path in this location and does not see it as a trailhead. She noted that it is beautiful land and a neighborhood asset.

Bob Stutz, 25310 Elena Road, recanted the history of horseback trail riding in the Valley. He agrees that this would be a neighborhood path and a valuable asset to the community.

Russell Hirsch, 11880 Francemont Drive, expressed his vehement opposition to a trailhead. Hirsch defined the location of his property for Council. He looks directly at the Kerns' newly constructed expansive retaining walls and driveway. Hirsch would like to see this area landscaped and screened and is opposed to any easement that would eliminate the option of planting. He supports Option #1.

Betty Kerns, applicant, reiterated her position that her neighbors are opposed to any neighborhood path and hopes Council will agree to vacate the easements and accept the dedication of a new pathway segment at Peck's nose.

Les Earnest, 12769 Dianne Drive, voiced his support for a path. He would like the issue resolved at tonight's meeting.

Chris Vargas, Pathways Committee Chair, added that Option #1 was what the applicant had proposed initially.

Bill Kerns, applicant, stated that his preference was Option #1 and he had initiated the discussion about trailheads to prepare the Council for future potential problems.

Sarah Rogez, resident, Francemont Drive is opposed to any action that would prevent the landscape screening of the retaining walls on the Kern's property.

CLOSED PUBLIC HEARING

Mayor Pro Tem O'Malley stated that he is not a proponent of trailheads in the Town. He believes that the appropriate time for the consideration of the vacation of pathways easements is during the review of the Master Path Map.

Councilmember Warshawsky explained that there is no compelling reason to vacate easements on this property at this time and supports revisiting the issue during the Path Map public hearings. The issue of modifying any easement to permit landscape screening could be addressed during the review of the Kerns' landscape application.

Councilmember Fenwick stated that he could support Option #1 which was agreeable to the applicant and the Pathways Committee.

Councilmember Kerr noted that he wants to be sure that the appropriate pathway-in-lieu fee is collected for this application. He reassured the neighbors and public in attendance, that Council is very sensitive to their concerns about pathway trailheads. Kerr could support Option #1 if it will provide the necessary area for planting screening to mitigate the view of the massive concrete retaining walls for the neighbor.

Mayor Cheng noted that during the Pathway Map public hearings in 2002, the residents in this area voiced their opposition to a trailhead at Francemont. She could support Option #1. It is sensitive to the privacy of the property owners and is not invasive to their property.

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by Fenwick and passed by the following roll call vote to direct the applicant to prepare revised grant of easement documents, legal descriptions and exhibits and to pay the appropriate pathway construction in-lieu fees(in conformance with Option one (1) as presented in the staff report):

AYES: Mayor Cheng, Councilmember Fenwick, Councilmember Kerr

NOES: Mayor Pro Tem O'Malley, Councilmember Warshawsky

ABSENT: None

ABSTAIN: None

8:45 p.m. Council Recessed

8:55 p.m. Council Returned to Open Session

- 11.3 Appeal of the Planning Commission's Approval of a Site Development Permit to Legalize an Existing Non-Conforming Pool patio, and Hardscape Improvements and Variances to Exceed the Property's Maximum Development Area and to Encroach into the 30-Foot Side Yard Setback; Lands of Lo, 14303 Saddle Mountain Drive.

Councilmember Fenwick recused himself from consideration of this item due to a conflict of interest created by the proximity of his property to the residence.

Assistant Planner Angelica Herrera Olivera introduced this item to Council. She explained that the Planning Commission reviewed this project at its November 13, 2003 meeting. At that time, the applicant presented documentation that indicated that the previous property owner did not disclose the presence of code violations on the property at the time of the sale. The violations include the addition of hardscape improvements in excess of the allowable maximum development area and the encroachment of the existing pool/patio into the 30-foot setback. The Planning Commission determined that the granting of the requested variance would maintain the purpose and the intent of the Ordinance and would not provide a special privilege to the applicant because past property owners appear to have been responsible for the existing code violations on the property.

OPENED PUBLIC HEARING

Lawrence Lo, 14303 Saddle Mountain Drive, applicant thanked the Council and Mayor for visiting his property. He shared photos of his home and property improvements that were taken 10 years ago at the time he purchased his home and compared them with recent photos. The earlier pictures verified the existence of the pool, patio, gazebo and patios. Lo explained that he has removed the gazebo and concrete patios. The applicant distributed copies of the disclosure statement prepared by the seller to Council. They did not disclose any violations and stated that all improvements had been done with the approval of the Town and the required building permits. Lo concluded his presentation with a letter from his neighbors that supported his keeping the existing pool and patio.

Dot Schreiner, 14301 Saddle Mountain Drive, neighbor of the applicant, concurred with the applicant that the pool and improvements were present at the time he purchased his home. She is not impacted by the code violations and added that the Lo's are exemplary neighbors. Schreiner hoped Council would act in accordance with the Planning Commission's decision and grant the Lo's request for a variance.

Jim Abraham, Viscaino Road, spoke in favor of Council granting the Lo's the variance request.

Jean Mordo, Planning Commissioner, noted that he was very sympathetic to the applicant but is concerned about a precedent being established. The Commission is reviewing property disclosure policies of surrounding Town's to reduce the instance of this happening again.

CLOSED PUBLIC HEARING

Mayor Pro Tem O'Malley expressed his support for the variance request. He believes the application is worthy of granting a variance.

Councilmember Warshawsky noted that this was an unfortunate situation and the Lo's clearly did not perpetrate the code violations. He supports the applicant's request for a variance.

Councilmember Kerr explained that he believes the primary purpose of codes is to protect adjoining property owners from being impacted adversely by the development and to protect the environment, i.e. water run-off, etc. He is in favor of granting this variance because neither of these criteria has been influenced.

Mayor Cheng concurs with Council. She explained that normally she does not favor granting variances, but this is a very unique situation and she supports the applicants request for a variance.

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Warshawsky and passed by the following roll call vote to approve the Site Development Permit and variances to exceed the property's maximum development area allowed by 2, 670 square feet and to encroach into the 30-foot side yard setback by up to 13 feet subject to the staff reports attached findings and conditions of approval.

AYES: Mayor Cheng, Mayor Pro Tem O'Malley, Councilmember Kerr, and Councilmember Warshawsky
NOES: None
ABSENT: None
ABSTAIN: Councilmember Fenwick

Council Adjourned to Closed Session at 12:01 a.m.

12. CLOSED SESSION

CLOSED SESSION: Pursuant to Government Code Section 54956.8: Conference with Real Property Negotiator -

Property: – APN 175-56-3

Agency Negotiators: Maureen Cassingham and Steve Mattas

Negotiating Parties: Town of Los Altos Hills and Purissima Hills Water District

Under Negotiation: Terms and Conditions related to Lease of Property

The City Council reconvened to the Regular City Council at 12:07.

The City Council provided direction to staff and no action was taken.

13. ADJOURNMENT

There being no further business, the Regular City Council Meeting was adjourned at 12:08 am.

Respectfully submitted,

Karen Jost,
City Clerk

The minutes of the January 15, 2004 Regular City Council Meeting were approved as corrected at the February 5, 2004 Regular City Council Meeting.